

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DWAIN ERIC COLEMAN,

Plaintiff,

10 Civ. 8766 (JGK)

- against -

MEMORANDUM  
OPINION AND ORDER

DE JESUS DUMENG, et al.

Defendants.

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JOHN G. KOELTL, District Judge:

Defendant Hogan's motion to dismiss should be directed to the amended complaint. Therefore, the motion to dismiss the original complaint, Docket No. 14, is **denied without prejudice to renewal** against the amended complaint. The time for defendant Hogan to file a new motion to dismiss is **July 28, 2011**. The plaintiff's time to respond to the new motion to dismiss is **August 18, 2011**, and the time to reply is **September 1, 2011**.

In response to defendant Hogan's statute of limitations defense, the plaintiff has argued that the statute of limitations was tolled by the mandatory administrative exhaustion requirement of the Prison Litigation Reform Act.

The Second Circuit Court of Appeals recently held that for a prisoner bringing a § 1983 action against a warden, "the applicable statute of limitations must be tolled while a prisoner completes the mandatory exhaustion processes."

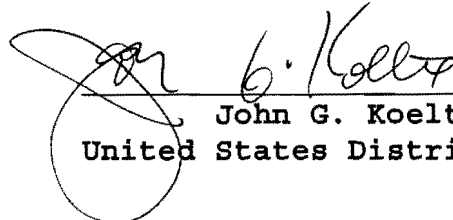
Gonzales v. Hasty, No. 07-1787-Pr., 2011 WL 2463562 (S.D.N.Y. June 22, 2011). In their new filings, the parties should address the applicability of Hasty.

The Court notes that defendants Dumeng and Wrobleski have filed a separate motion to dismiss the amended complaint, Docket No. 30. The time for the plaintiff to respond to that motion is extended to **August 18, 2011**. The time for defendants Dumeng and Wrobleski to reply is **September 1, 2011**. The Court also notes that this will coordinate the new motion to dismiss by defendant Hogan and the pending motion to dismiss by defendants Dumeng and Wrobleski.

The clerk is directed to close Docket No. 14.

SO ORDERED.

Dated: New York, New York  
July 8, 2011

  
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John G. Koeltl  
United States District Judge